

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

ROGER G. VanBLARCOM,)	
)	
Plaintiff,)	
)	
v.)	NO. 3:09-0528
)	Judge Echols/Bryant
WALTER G. (GREGG) THOMASON,)	
)	
Defendant.)	

TO: The Honorable Robert L. Echols

REPORT AND RECOMMENDATION

It appears from the record that service of process on the defendant has never been obtained.

On January 4, 2010, the undersigned Magistrate Judge issued an order to plaintiff VanBlarcom to show cause on or before January 22, 2010, why his complaint should not be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure for his failure to obtain service of process within 120 days after the complaint is filed. The copy of this order mailed to plaintiff by the Clerk was returned by the Post Office marked "return to sender - unclaimed - unable to forward." (Docket Entry No. 11). Plaintiff has not responded to the order to show cause, nor, insofar as the record shows, has he obtained service on defendant Thomason.

RECOMMENDATION

For the reasons stated above, and pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, the undersigned Magistrate

Judge **RECOMMENDS** that the complaint be **DISMISSED** without prejudice for the plaintiff's failure to obtain service of process on the defendant.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986).

ENTERED this 23rd day of February 2010.

s/ John S. Bryant
JOHN S. BRYANT
United States Magistrate Judge